

### **REMARKS/ARGUMENTS**

In the Office Action mailed April 3, 2009 (hereinafter, "Office Action"), claims 10-18 stand rejected under 35 U.S.C. § 101. Claims 1-18 stand rejected under 35 U.S.C. § 103. Claims 1, 4, 10 and 15 have been amended. Claim 3 has been canceled.

Applicants respectfully respond to the Office Action.

#### **I. Claims 10-18 Rejected Under 35 U.S.C. § 101**

Claims 10-18 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Specification has been amended above, as suggested by the Examiner, to overcome the rejection. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 10-18.

#### **II. Claims 1-18 Rejected Under 35 U.S.C. § 103(a)**

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0018759 to Baumann (hereinafter, "Baumann") in view of U.S. Patent No. 6,920,555 to Peters et al. (hereinafter, "Peters"). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 2007 U.S. LEXIS 4745, at \*\*4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection "should be made explicit." KSR, 2007 U.S. LEXIS 4745, at \*\*37. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicants respectfully submit that the claims at issue are patentably distinct from the cited

portions of Baumann and Peters, which do not teach or suggest all of the limitations in these claims. For example, amended independent 1 recites, among other subject matter, that “the imaging tool writes the image to the hard drive of the computer system such that the imaging tool accesses the image from a same partition of the hard drive as to which the imaging tool is writing the image.” Applicants submit that at least this subject matter is neither taught nor suggested, alone or in combination, by the cited portions of Baumann and Peters. Applicants note that no new matter has been added by this amendment. Support for this amendment can be found in Applicants’ Specification at least in numbered paragraph [22].

In making the rejection of claim 3, the Office Action relies on Fig. 2 and numbered paragraph [0015] of Baumann to show that image files are cloned from the temporary storage space on the client system to the free space on the client system. (See Detailed Office Action, pages 6-7). In response, Applicants first note that the amendments to independent claims 1, 10, and 15 are not merely an inclusion of the subject matter of claim 3. Rather, the plain language of the amendments clearly indicates that the process of writing the image to the hard drive involves the imaging tool accessing the image from the same partition of the hard drive as to which the image is being written.

This is an important distinction that is neither taught nor suggested by the cited portions of Baumann and Peters. For example, numbered paragraph [0015] of Baumann indicates, in part, that:

At step 206 in FIG. 2, an application on the client system will delete all current partitions on the target drive for the system image and system customization. Then, a temporary storage space (e.g. a partition, a writeable CD, a RAM drive) will be created on the client system 102. Next, at step 208, the image files corresponding to the requested system image are transferred, from the storage device 108 connected to the server system 104, to the temporary storage space on the client system 102 that was created at step 206. At step 210, the image files are cloned from the temporary storage space on the client system 102 to the free space on the client system 102. This step is performed using a cloning tool on the client system 102 to restore the system image from the image files. At step 212, the image files are deleted from the temporary storage space . . . (Emphasis added).

This passage clearly indicates that Baumann advocates wiping the target drive of all partitions in preparation for receiving the image files that are to be used in the cloning process. Once the partitions are deleted, Baumann indicates that a temporary storage space be created to hold the image

files that will be used for the cloning process. During the cloning process, Baumann states that the image files are cloned from this newly made temporary storage space to a free space, which is different from the temporary storage space. Then, after all the image files have been cloned into the free space, Baumann deletes the image files from the temporary storage space. This is significantly different from the subject matter recited in Applicants' claims.

Specifically, the subject matter of Applicants' claims indicates that the imaging tool writes the image to the hard drive of the computer system such that the imaging tool accesses the image from a same partition of the hard drive as to which the imaging tool is writing the image. The cited portions of Baumann and Peters do not teach or suggest this feature. Applicants submit that this difference may yield significant advantages over the teachings of Baumann and Peters. For example, by allowing the imaging tool to access the image from the same partition as to which it is writing the image, a much larger image may be copied. Potentially, an image up to the entire size of the hard drive could be copied using this technique, as opposed to the teachings of Baumann that would limit the size of the image to be cloned to about half of the size of the hard drive since the image to be cloned in Baumann is read from the temporary storage space and written into the free space, which is a different space than the temporary storage space. The technique taught by Baumann further limits the size of the image that may be copied by maintaining the image files in the temporary storage space during the entire cloning process and only allows deletion of the image files once the cloning process has been completed.

An example of accessing and writing to the same partition can be seen in Applicants' Specification (FIG. 6 and numbered paragraph [52]), which describes how the size 620 of the imaged area can increase during the imaging process. In this manner, imaging data can be deleted from the rear end of the partition once it has been written to the front end of the partition. Thus, almost the entire hard drive, which could be configured as one large "partition," could be utilized during the imaging process, which could not be achieved by following the teachings of the cited portions of Baumann in which one dedicated area is used to access the image to be cloned while another dedicated area is used to write the image. The cited portions of Peters do not cure the deficiencies of

Baumann. Thus, the cited portions of Baumann and Peters, taken alone or in combination, fail to teach or suggest all of the subject matter of Applicants' claims.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from the cited references. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1.

Claims 2 and 4-9 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2 and 4-9.

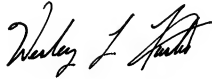
Claim 10 has been amended to recite "the imaging tool writes the image to the hard drive of the computer system such that the imaging tool accesses the image from a same partition of the hard drive as to which the imaging tool is writing the image." As discussed above, Baumann, alone or in combination with Peters, does not teach or suggest this claimed subject matter. Accordingly, Applicants respectfully submit that claim 10 is allowable. Claims 11-14 depend either directly or indirectly from claim 10, and are therefore allowable for at least the same reasons.

Claim 15 has been amended to recite "the imaging tool writes the image to the hard drive of the computer system such that the imaging tool accesses the image from a same partition of the hard drive as to which the imaging tool is writing the image." As discussed above, Baumann, alone or in combination with Peters, does not teach or suggest this claimed subject matter. Accordingly, Applicants respectfully submit that claim 15 is allowable. Claims 16-18 depend either directly or indirectly from claim 10, and are therefore allowable for at least the same reasons.

**III. Conclusion**

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley L. Austin', with a stylized flourish at the end.

/Wesley L. Austin/

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